

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF WASHINGTON

Daniel (Katherine Wren
Katzenjammer) Young and Richard
Young,

Plaintiffs,

v.

PATRICK E. PEÑA individually and in
his Official Capacity as an OFFICER
of the BELLINGHAM POLICE
DEPARTMENT ; NICOLAS
STURLAUGSON, individually and in
his Official Capacity as an OFFICER
of the BELLINGHAM POLICE
DEPARTMENT; TRAVIS HAURI,
individually and in his Capacity as a
CRIME SCENE INVESTIGATOR of the
BELLINGHAM POLICE DEPARTMENT;
DAVID JOHNSON, Individually and in
his Capacity as a SERGEANT of the
BELLINGHAM POLICE DEPARTMENT;

NO.

COMPLAINT FOR VIOLATIONS OF
CIVIL RIGHTS (U.S. and WA CONST.)
(1st, 4TH, 5th, 8TH and 14th
AMENDMENTS); FALSE ARREST;
FALSE IMPRISONMENT; ASSAULT,
BATTERY; INTENTIONAL
INFLICTION OF EMOTIONAL
DISTRESS; VIOLATION OF RCW
49.60.030; NEGLIGENCE

JURY TRIAL DEMANDED

YOUNG v. PENA, et al., CIVIL COMPLAINT

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CITY OF BELLINGHAM; and Does 1-200

Defendants.

Daniel (Katherine Wren Katzenjammer) Young and Richard Young, the Plaintiffs herein, by and through their attorney, allege as follows:

I. JURISDICTION

1. This court has jurisdiction over the subject matter of this action pursuant to Title 28, United States Code Sections 1331, 1332, 1343, and 1367, and venue is properly set in the Western District Federal Court pursuant to 28 U.S.C. 1391.

2. The claims upon which this suit is based occurred in this judicial district.

3. Plaintiffs are informed and believe, and on that basis allege, that each of the named Defendants reside in this judicial district.

2.1 PLAINTIFF DANIEL YOUNG is a single First Nations person residing primarily in the State of Washington, in WHATCOM County within the Western District of Washington. Plaintiff Young is in the process of changing her name to KATHERINE WREN KATZENJAMMER. This Plaintiff was the victim of Race Discrimination,

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1 excessive force, false arrest, grossly offensive invasion of privacy, malicious
 2 prosecution, AND OTHER Constitutional and tort violations as described below, at the
 3 hands of Defendants Peña, Sturlaugson, Hauri, Johnson and other officers and Doe
 4 Defendants after a false report to the police.

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 6 2.2 PLAINTIFF RICHARD YOUNG is a single First Nations man residing primarily in
 7 the State of Washington, in WHATCOM County within the Western District of
 8 Washington. He is the father of Daniel Young and was one of the two actual tenants of
 9 the property where the incident occurred. RICHARD YOUNG is a patient at the Kidney
 10 Center in St. Joseph's Hospital receiving dialysis on Mondays, Wednesdays and
 11 Fridays. Mr. Young can barely walk and cannot run or charge at anyone. This Plaintiff
 12 was the victim of Race Discrimination, excessive force, false arrest, malicious
 13 prosecution, and other Constitutional and tort violations as described below, at the
 14 hands of Defendants Peña, Sturlaugson, Hauri, Johnson and other officers and Doe
 15 Defendants after a false report to the police by a third party with a history of lying.

16 2.3 DEFENDANT PATRICK PEÑA is a male, marital status unknown who, by
 17 information and belief resides primarily in the State of Washington, in WHATCOM
 18 County within the Western District of Washington. Defendant Peña is and was, at the
 19 time of this incident a Bellingham Police Officer acting under color of authority in the
 20 performance of his duties, and acting within the course and scope of his duties, and,
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1 based on a false report, burst into the residence of Richard Young-where PLAINTIFFS
 2 were peacefully sleeping, without cause or justification, along with Defendant
 3 Sturlaugson tasered both Plaintiffs twice each, otherwise physically assaulted them,
 4 dragged them out of Richard's apartment and arrested them.

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 6 2.4 DEFENDANT NICOLAS STURLAUGSON, is a male, marital status unknown
 7 who, by information and belief resides primarily in the State of Washington, in
 8 WHATCOM County within the Western District of Washington. Defendant Peña is and
 9 was, at the time of this incident a Bellingham Police Officer acting under color of
 10 authority in the performance of his duties and acting within the course and scope of his
 11 duties, and, based on a false report, burst into the residence of Richard Young-where
 12 PLAINTIFFS were peacefully sleeping, without cause or justification, along with
 13 Defendant Peña tasered both Plaintiffs twice each, otherwise physically assaulted them,
 14 dragged them out of Richard's apartment and arrested them.

15 2.5 DEFENDANT TRAVIS HAURI, is a male, marital status unknown who, upon
 16 belief resides in WHATCOM County within the Western District of Washington State.
 17 Upon knowledge and belief, HAURI was at the time of the injuries complained of in this
 18 Complaint, an Crime Scene Investigator (CSI) with the BELLINGHAM POLICE
 19 DEPARTMENT (hereinafter identified as BPD), acting under color of authority in the
 20 performance of his duties and acting within the course and scope of his duties, and,
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1 based on a false report, burst into the residence of Richard Young-where PLAINTIFFS
 2 were peacefully sleeping, without cause or justification, and assisted OFFICERS PENA
 3 AND STURLAUGSON to physically assault both DANIEL YOUNG and RICHARD
 4 YOUNG, drag them out of Richard's apartment and arrest them. He then deliberately
 5 violated PLAINTIFF DANIEL YOUNG and PLAINTIFF RICHARD YOUNG's right to
 6 privacy by conducting an illegal, unwarranted search of PLAINTIFF DANIEL YOUNG
 7 body while PLAINTIFF was unconscious in order to gather evidence; and took
 8 PLAINTIFF RICHARD YOUNG from OFFICER PENA's police vehicle while he was
 9 extremely disoriented and semi-conscious in order to take pictures of the Taser probe
 10 impact sites before removing them.

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 12 2.6 DEFENDANT DAVID JOHNSON, is a male, marital status unknown who, upon
 13 belief resides in WHATCOM County within the Western District of Washington State.
 14 Upon knowledge and belief, DEFENDANT JOHNSON was at the time of the injuries
 15 complained of in this Complaint, a SERGEANT supervisor and/or agent of the
 16 BELLINGHAM POLICE DEPARTMENT (hereinafter identified as BPD), acting under
 17 color of authority in the performance of his duties and acting within the course and
 18 scope of his duties. He was the supervisor and upon knowledge and belief, trained the
 19 officers and employees under his command in the procedures used that resulted in the
 20 injuries complained of herein. SGT. JOHNSON also accompanied DEFENDANT CSI

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HAURI to the hospital where he assisted and/or supervised the illegal and unwarranted photographing of PLAINTIFF DANIEL YOUNG in order to gather evidence.

2.7 DEFENDANT CITY OF BELLINGHAM is a government entity in WHATCOM COUNTY governed and functioning under the laws of the State of Washington. It employs OFFICER PATRICK PENA, OFFICER NICOLAS STURLAUGSON, INVESTIGATOR TRAVIS HAURI and SERGEANT DAVID JOHNSON, as well as John and Jane Doe involved employees, supervisors of the BPD and other city officials and police officers whose identities are unknown, who were involved in this incident and committed the Constitutionally violative, and tortious conduct against Plaintiffs and/or were involved in the policy development and implementation and/or failure to train, supervise, and discipline the DEFENDANTS, both named and DOES.

2.8 There are other persons, including Whatcom County Sheriff Deputy Rathman and Officer Christopher Kaiser, who were present on the scene but whose actions are unknown to PLANTIFFS, and other persons whose identities presently are unknown to Plaintiffs, who are and were at all times mentioned herein, employees, officers, supervisors, incident commanders, training, and/or disciplining officers, and/or decision-makers of the BELLINGHAM POLICE DEPARTMENT, WHATCOM COUTY SHERIFF'S OFFICE, the BELLINGHAM FIRE DEPARTMENT, the paramedic responders, and/or other agencies who acted in concert with the above named Defendants and who

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1 devised or approved the actions that are the subject of this action and in doing the
 2 things hereinafter alleged, acted under color of STATE and FEDERAL LAW as agents
 3 of the various named entities, and/or other involved individuals and/or agencies and
 4 with those agency(ies)'s full consent and approval.

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 6 2.9 DOES 1-200 are, and were at all times mentioned herein, law enforcement
 7 personnel, Deputies, Supervisors, the Incident Commander for this incident, involved
 8 actors, elected or appointed Police or Governmental Officials, and/or associated private
 9 entities or individuals, involved in the Planning, Creation, Development, training in,
 10 policy leading to the surveillance, false detention, false imprisonment, and or use of
 11 force against Plaintiffs and the violations of Plaintiffs' Constitutional Rights in the
 12 incidents that are the subject of this action, or Exercise Of Police Force and Control,
 13 and/or failing to discipline officers, thus tacitly encouraging these incidents to occur
 14 against Plaintiffs that are the subject of this action, and in committing the acts and
 15 omissions herein alleged, acted under color of state law as law enforcement employees,
 16 agents of the CITY OF BELLINGHAM POLICE DEPARTMENT, WHATCOM County
 17 Sheriff's Office and/or any political subdivision thereof, WHATCOM County and/or any
 18 subdivision or predecessor organization, and/or the City of BELLINGHAM and/or any
 19 subdivision or predecessor organization, and/or any other governmental entity who
 20 came to the scene, and violated Plaintiffs' rights as discussed.

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2.10 This action is brought pursuant to the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, the Anti-discrimination section of the Washington RCW (46.60.030) and common law torts.

2.11 Plaintiffs filed tort claims in this matter on May 11, 2018. The City of Bellingham rejected those claims by letter on June 25, 2018.

III. FACTS

3.1 Plaintiff Richard Young is a 65 year-old First Nations man with a debilitating kidney condition that for several years (since well before the incident in question) has required kidney dialysis three times per week.

3.2 Richard Young can and could at the time of the incident barely walk and is extremely weak and not a threat to anyone's safety.

3.3 In 2016 Richard Young signed a lease for a two bedroom apartment at 2619 West Maplewood in Bellingham (Apt. 107).

3.4 Out of the goodness of his heart, Richard allowed a longtime acquaintance known as Heather, Natalie, Natalia, and a variety of other names as is convenient, to cosign the lease and occupy one of the bedrooms.

3.5 She cosigned the lease under the fictitious name of "Neveah Vaughn".

3.6 Her real name is unknown, but a warrant is out for her arrest in Arizona under the name of Heather _____ for violating a court custody order and kidnapping

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1 her mentally disabled son and transporting him to Washington, and she has a lengthy
2 arrest record and civil suit record under that name.

3 3.7 The ostensible reason for “Heather”’s desire to live in Whatcom County was
4 to be in closer proximity to her Canadian husband(?) and further from an allegedly
5 abusive boyfriend in Centralia.

6 3.8 As soon as they moved into the apartment, Heather launched a campaign to
7 drive Richard from his bedroom so she could install her daughter and a companion
8 (Andrew Albers) who was introduced at different times as the daughter’s brother and as
9 her boyfriend.

10 3.9 The daughter has also gone by a variety of fictitious names including Isabelle
11 and Isabella.

12 3.10 At the time of the main incident that is the basis for this complaint, she was
13 going by Isabella Petrova, which is how she referred to herself when filing the false
14 report with the Bellingham Police Department that led to this incident.

15 3.11 Isabella Petrova is the name of a fictional character from the “Twilight” book
16 and movie series.

17 3.12 Plaintiffs cannot locate “Heather” or “Isabella” and their whereabouts are
18 unknown.

1 3.13 Eventually “Heather” succeeded in her efforts to drive Richard from his
2 bedroom even though he was paying at least half and often all of the rent from his
3 benefits check.

4 3.14 Richard was then forced to sleep on a couch in the living room.

5 3.15 On the night of June 2, 2016, Richard had invited his then son (now
6 daughter) Daniel, (Now Katherine), also dark skinned and obviously indigenous, over for
7 a visit. They sat in the living room talking and drinking, in Richard’s home.

8 3.16 “Heather” was not home, but “Albers” and “Petrova” were in Richard’s former
9 bedroom.

10 3.17 Richard and Daniel Young had no contact with “Albers” or “Petrova” except
11 for a brief verbal greeting.

12 3.18 For a reason that is not currently known to a certainty, but is strongly
13 believed to be for the purpose of getting Richard Young kicked out of the apartment so
14 that she could formally take over “Petrova” called in a fictitious sexual assault complaint
15 against Daniel Young, who had not touched her, had barely seen her, and said nothing
16 to her other than hello.

17 3.19 Defendant BPD Officers Peña and Sturlaugson burst into the apartment
18 woke Richard and Daniel Young and started yelling orders before the Youngs were
19 even conscious, taking their disorientation as defiance and disobedience.

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1 3.20 Peña and Sturlaugson startled Daniel Young awake and immediately began
2 ordering him to get on the couch and contradictorily to leave the apartment and to
3 cooperate.

4 3.21 Daniel Young was willing to cooperate, and offered and attempted to do so.

5 3.22 In spite of that cooperation, Peña and Sturlaugson began to physically
6 assault Daniel Young, while ordering them to leave their father's apartment, thus
7 waking up Richard.

8 3.23 Richard Young, groggy, confused, and under the effects of alcohol began
9 demanding that the officers stop attacking his child.

10 3.24 Peña and Sturlaugson responded to the confusion and panic that they had
11 caused by tasing Richard Young once and Daniel Young twice without warning or
12 provocation.

13 3.25 Defendant Officers falsely claim that the tasings were justified, claiming that
14 Richard Young, who can barely walk and was semi-conscious charged at them and
15 struck them and that Daniel Young, who was tased first, was tased because he
16 supposedly attempted to pull the taser darts/wires out of his father's body, which he
17 would never do, and could not have done if he was tased first, as he was.

18 3.26 Richard Young never moved towards Peña or Sturlaugson or touched them
19 in any way.
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1 3.27 Peña and Sturglaugson then threw the Youngs to the floor pulling Richard
2 Young's hair and twisting both Youngs' arms, and called for back-up.

3 3.28 Richard Young was and is generally in extremely poor health and suffered(s)
4 from the previously discussed kidney disease.

5 3.29 Daniel Young had a pulmonary embolism that the shock from the tasers
6 could easily have caused to break loose and travel to the brain, killing him immediately.

7 3.30 The Youngs were each panicked and worried about each other, demanding
8 to speak to each other,

9 3.31 The Officers refused and took that demand as an additional sign of defiance.

10 3.32 BPD Crime Scene Investigator Travis Hauri arrived and participated in
11 brutalizing the Youngs as did Lt, David Johnson, and Officer Christopher Kaiser.

12 3.33 The officers dragged the Youngs outside and proceeded to tase Richard
13 again while he was lying on the ground already in handcuffs.

14 3.34 Defendant BPD Crime Scene Investigator HAURI has Richard Young, who is
15 unconscious or semi-conscious and in shock, taken out of Pena's car, with the taser
16 darts still in Richard Young's body in order to take pictures of Richard Young's wounds
17 and body without his permission or knowledge.

18 3.35 Eventually paramedics (Doe Defendants one and two) arrived, summoned
19 by BPD and proceeded to administer an injection to Daniel Young, who was already
20 essentially unconscious, that rendered him further unconscious.

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1 3.36 The Paramedics then took Daniel Young to St. Joseph's hospital where he
2 was treated while handcuffed to the bed.

3 3.37 While Daniel Young was unconscious, Defendant HAURI, by his own
4 admission uncovered Daniel Young's body and without Young's knowledge took
5 photographs of the four puncture wounds from the two taser darts and a bruise inflicted
6 by the officers, and of Young's body in general to store as evidence.

7 3.38 Young was already in the process of "right gendering" from male to female,
8 and is an extremely private person and for both of these reasons finds this violation to
9 be extremely offensive.

10 3.39 He was eventually released without a citation, only to be charged by the City
11 with misdemeanor sexual assault weeks later despite the specious nature of the case
12 the supposed victim's complete disappearance.

13 3.40 That case was eventually dismissed seven months after the incident

14 3.41 Meanwhile, Richard Young in extremely fragile physical condition was taken
15 to the Whatcom County Jail where he was held from his arrest on a Thursday night and
16 then held over the weekend.

17 3.42 His need for a kidney dialysis was never addressed. He requires kidney
18 dialysis on Monday, Wednesday and Fridays.

1 3.43 He was not allowed to attend his dialysis on that Friday, nor did the jail
2 arrange for him to have dialysis or any other form of relief or medical attention for my
3 condition causing him severe physical distress and putting his life at risk.

4 3.44 Richard Young was finally released on bail on the following Monday having
5 spent five days in jail for supposedly assaulting an officer who brutalized him, and who
6 he never touched.

7 3.45 The entire incident was tinged by racist assumptions and force and actions
8 that neither Peña nor Sturlaugson would have exhibited towards white subjects.

9 3.46 Instead on entering the residence calmly to investigate the specious
10 accusation, they charged in shouting orders to the two sleeping occupants and tasing
11 first and asking questions later, all of which is all too familiar in the history of law
12 enforcement treatment of Native Americans.

13 3.47 As a result of the incident and the false charges filed against the Youngs,
14 both were evicted from their homes and each spent months homeless thus further
15 exacerbating their medical conditions and fundamentally disrupting and temporarily
16 destroying their lives

17 3.48 The City dismissed the sexual assault charge against Daniel Young in the
18 interest of justice after seven months due to questions about the veracity of the victim
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1 3.49 Eventually, after more than a year, Whatcom County dismissed the felony
2 assault charge against Richard Young, and the Youngs were able to attempt to move
3 on with their lives

4 3.50 They both suffered profound emotional trauma and physical disruption that
5 continues to affect them, an ongoing rupture to their personal relationship, severe
6 economic loss and other harm.

7 3.51 Meanwhile, “Heather/Nevaeha/Natalie/Natalia was also evicted and left
8 town along with “Petrova” and “Albers” who never officially lived there in the first place.

9 3.52 The Civil Division of the Bellingham City Attorney’s Office continues to insist
10 that the officers’ actions were justified.

11 3.53 All of the involved officers were wearing body cameras, and are visible and
12 audible on the videos that exist testing the cameras.

13 3.54 Peña conveniently, in spite of this, claims that he “forgot” to hit record and
14 that there is no video from his camera. Thus the evidence that would most clearly prove
15 what did and did not happen at the scene conveniently for Peña does not, allegedly,
16 exist.

17 3.55 On December 22, 2015, PLAINTIFFS filed civil claims for damages against
18 the City. On February 4, 2016, the Bellingham City Attorney’s Office formally rejected
19 those claims, and the required 60-day period will expire on July 10, 2018.

IV. STATEMENT OF DAMAGES

4.1 As a direct and proximate result of the intentional and/or negligent acts of Defendants and those acting on behalf of them, Plaintiffs sustained deprivation of their First, Fourth, Fifth, Eighth, and Fourteenth Amendment Rights, deprivation of liberty, great bodily harm, violations of privacy, threats to and fear for his personal safety, discrimination based on race, economic loss, loss of their homes, loss of quiet enjoyment of their home (Richard) pain and suffering and injury in an amount that will be established at trial.

4.2 As a direct and proximate result of the intentional and/or negligent acts of Defendants and those acting on behalf of them, PLAINTIFFS suffered severe emotional distress, intense fear for the safety of each other while in the zone of danger, in an amount to be established at trial.

4.3 As a further direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiffs have had to retain legal counsel to vindicate their rights in court at an amount to be established at trial, for their criminal cases against them, and for which they are entitled to be reimbursed.

4.4 As a further direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiffs have had to retain legal counsel to vindicate their rights in court at an amount to be established at trial, and for which they are entitled to be reimbursed.

4.5 As a further direct and proximate result of the intentional and negligent acts of the Defendants, PLAINTIFFS, underwent frightening physical and psychological abuse, as well as violations to their privacy and personal information solely caused by DEFENDANTS PEÑA, STULAUGSON, HAURI and other unnamed DEFENDANTS' abuse of their position(s) as law enforcement officers, and the Departments' policies and failure to properly train, supervise, and discipline them. This was compounded by deliberate policies emanating from the CITY OF BELLINGHAM that pay lip service to opposing racial profiling while engaging in it, particularly as to Latinos and Native Americans.

4.6 PLAINTIFFS are entitled to compensation for the Constitutional and personal harms Defendants inflicted on them and the chilling effect their actions had on their lives.

V. CAUSE OF ACTIONS:

COUNT ONE **VIOLATION OF CIVIL RIGHTS** **42 USC § 1983**

(As To DEFENDANTS PEÑA, STURLAUGSON, HAURI and DOES 1-100)

5.1. PLAINTIFFS re-allege and incorporate herein by reference the allegations set forth in Paragraphs 1 through 4.5 of this Complaint.

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1 5.2. In committing the acts complained of herein, DEFENDANTS acted under
2 color of state law to deprive PLAINTIFF RICHARD AND DANIEL YOUNG., as alleged
3 herein, of certain constitutionally protected rights including, but not limited to:

- 4 (a) The right not to be deprived of liberty without due process of law;
5 (b) The right to be free from invasion or interference with PLAINTIFF'S
6 zone of privacy;
7 (c) The right to equal protection of the law;
8 (d) The right to be free from unreasonable search and seizure;
9 (e) The Right to Freedom of Expression UNDER THE FIRST
10 AMENDMENT, including objecting to the conduct of the police without arrest and
11 without violent response
12 (f) The right to be free from police use of excessive force;
13 (g) The right to be free from discriminatory law enforcement;
14 (h) The right to be free from Racial Profiling;
15 (i) The Right not to be subjected to cruel and unusual punishment
16 deprived of necessary medical treatment (Richard), inspection and photography
17 of Daniel's body while unconscious and receiving medical treatment for injuries
18 inflicted by the officers.)
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5.3 In violating PLAINTIFFS' rights as delineated above, and other rights according to proof, DEFENDANTS acted by verbal threat and intimidation, use of force, false detention, violation of privacy, false arrest and imprisonment and by ratifying personally the above listed conduct, DEFENDANTS acted to violate PLAINTIFFS' rights under the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution, resulting in drastic personal, physical, emotional, and economic harm to Plaintiffs.

5.4 DOES 1-100 are the other law enforcement officers, supervisors and personnel involved directly in the incidents in question and/or the direct supervision, training, and disciplining of officers other than command officers, and of developing the policies in question.

5.5 As a direct and proximate result of the violations of their Constitutional rights by DEFENDANTS, and each of them, PLAINTIFFS suffered general and special damages as alleged in this Complaint.

WHEREFORE, PLAINTIFFS pray for relief as hereinafter set forth.

COUNT TWO
Violation of Civil Rights
(42 USC § 1983)
(As To DEFENDANT Johnson, and Does 101-500)

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1 5.6 PLAINTIFFS re-allege and incorporate herein by reference the allegations
2 set forth in Paragraphs 1 through 5.5 of this Complaint.

3 5.7 At all times herein mentioned, Defendant DAVID JOHNSON and other
4 supervisors of Officers PEÑA, STURLAUGSON, HAURI, AND OTHER OFFICERS ON
5 THE SCENE, acted with deliberate intent and policy to give free rein to the other officers
6 on the scene and BPD Officers in general to engage in RACIAL PROFILING, unlawful
7 detention of an obvious minor, physical and verbal abuse, false arrest and detention and
8 other RACIALLY DISCRIMINATORY and Unconstitutional actions that deprived
9 PLAINTIFFS and many others of their rights secured by the Constitution of the United
10 States, including, but not limited to their rights under the First, Fourth, Fifth, Eighth, and
11 Fourteenth Amendments to the U.S. Constitution, and rights under the Washington
12 State Constitution.

13 5.8 The DOE supervisors of named Defendants acted deliberately to ratify the
14 above-described policy and actions, and participated in the creation and implementation
15 of this policy, and failed to properly train, supervise, and discipline named Defendants
16 and other involved officers,

17 5.9 The CITY OF BELLINGHAM, and its officials, endorsed, encouraged, and
18 ratified THESE POLICIES to profile subjects based on their race while insisting that the
19 Department did not engage in racial profiling and that they would fire any officer who did
20 so.

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1 5.10 OFFICERS OF THE BELLINGHAM POLICE DEPARTMENT have
2 engaged in repeated acts of Racial Profiling without being disciplined in any way thus
3 fostering an attitude of acceptance and tolerance of racial profiling, resulting in pattern
4 and practice to the severe detriment of community members and visitors of color.

5 5.11 In committing the acts complained of herein and in their official and
6 individual capacity, JOHNSON and DOE DEFENDANTS acted with a design and
7 intention to deprive PLAINTIFFS. and others of rights secured by the Constitution of the
8 United States and acted with deliberate indifference to PLAINTIFFS' rights.

9 5.13 As a direct and proximate result of the acts complained of herein,
10 PLAINTIFF A. J. has suffered general and special damages as set forth in this
11 Complaint.

12 WHEREFORE, PLAINTIFFS pray for relief as hereinafter set forth.

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14 **COUNT THREE**
15 **RACE DISCRIMINATION**
16 **(RCW 46.60.030 et seq.)**
17 **(As to All DEFENDANTS)**

18 5.14 PLAINTIFFS re-allege and incorporate herein by reference the allegations
19 set forth in Paragraphs 1 through 5.13 of this Complaint.

20 5.15 DEFENDANTS PEÑA, STURLAUGSON, HAURI, JOHNSON AND DOES 1-
21 100's singling out of PLAINTIFFS for drastic disparate treatment based on their race,
22 that is shockingly and reprehensibly different in any manner in which they would have

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1 treated similarly situated sleeping white people during a similar investigation is clear and
2 undisguised race discrimination and discriminatory law enforcement based on race.

3 5.16 Allowed and facilitated by DEFENDANTS JOHNSON and Does 101-200,
4 THE CITY OF BELLINGHAM and DOE DEFENDANTS' deliberate policies and actions
5 of race discrimination against Native Americans and other people of color resulted in
6 racist policing and the discriminatory pattern and practice described throughout this
7 Complaint.

8 5.17 All of this violated PLAINTIFFS' right to be free of race discrimination and
9 discriminatory law enforcement based on race in direct violation of RCW 46.60.030, et
10 seq. of the Washington State Constitution.

11 5.18 As a direct and proximate result of the violation of their Constitutional
12 rights by DEFENDANTS, and each of them, PLAINTIFFS suffered general and special
13 damages as alleged in this Complaint.

14 5.19 The conduct of DEFENDANTS was willful, malicious, oppressive, and/or
15 reckless, and was of such a nature that punitive damages should be imposed in an
16 amount commensurate with the wrongful acts alleged herein.

17 WHEREFORE, PLAINTIFFS pray for relief as hereinafter set forth.
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COUNT FOUR
BATTERY AND ASSAULT
(AS TO ALL DEFENDANTS)

5.20 PLAINTIFFS re-allege and incorporate herein by reference the allegations set forth in Paragraphs 1 through 5.19 of this Complaint.

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1 5.21 By using unnecessary and excessive force throughout the incident
2 including physical blows, taser strikes and shocks, unnecessary pain compliance
3 holds, throwing Plaintiffs to the ground, dragging them outside, and laying hands
4 on them to expose their bodies for evidence photographs and any other force
5 used to make or facilitate the arrests of Plaintiffs and/or the investigation of this
6 incident, Defendants engaged in harmful and offensive touching that was, in
7 each case harmful to Defendants physically and emotionally

8 5.22 Throughout this incident Defendants terrified Plaintiffs and used that
9 fear to attempt to control them and inflict pain and suffering. It was reasonable
10 for Plaintiffs to believe that Defendants, at any moment were likely to inflict more
11 harmful and/or offensive touching on them, and Plaintiffs did reasonably so fear,
12 thus constituting a common law assault.

13 5.24 As a direct and proximate result of the Batteries and Assaults by
14 Defendants on Plaintiffs, Plaintiffs suffered general and special damages as
15 alleged in this Complaint.

16 5.25 The conduct of Defendants was willful, malicious, oppressive,
17 and/or reckless, and was of such a nature that punitive damages should be
18 imposed in an amount commensurate with the wrongful acts alleged herein.

19 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.
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COUNT FIVE
FALSE ARREST
(As to All DEFENDANTS)

5.26 Plaintiffs re-allege and incorporates herein by reference the allegations set forth in Paragraphs 1 through 5.25 of this complaint.

5.27 DEFENDANTS, falsely arrested Plaintiff Richard Young on the wholly specious claim that this frail, sick man who could barely walk, charged at and attacked him, thus attempting to justify tasing him twice and otherwise physically brutalize him without any cause or justification.

5.28 As a result of this false arrest and the false statements in Defendants' police reports, Richard Young spent five days in jail and was prevented from receiving his medically vital dialysis treatment and lost his home and became homeless.

5.29 DEFENDANTS' seizure and arrest of PLAINTIFF without probable cause violated PLAINTIFF'S rights under the Washington State and U.S. Constitutions, and further resulted in the malicious prosecution which followed, and the harm caused thereby.

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5.32 As a direct and proximate result of the acts complained of herein, PLAINTIFFS have suffered general and special damages as set forth in this complaint.

COUNT SIX
FALSE IMPRISONMENT
(As to all DEFENDANTS)

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1 5.34 As a result of the false arrest and transportation to jail by
2 DEFENDANTS as discussed throughout this complaint, Plaintiff RICHARD
3 YOUNG spent five days imprisoned in the Whatcom County Jail, despite having
4 done nothing wrong, until finally being released on bail on the following Monday,
5 missing his dialysis treatment and suffering great physical and psychological
6 harm.

7 5.35 But for the false arrest and false statements made by PEÑA
8 STURLAUGSON, HAURI and the other involved officers as detailed above,
9 PLAINTIFF would never have undergone this suffering

10 5.36 As a result of the false arrest and transportation to jail by
11 DEFENDANTS, PLAINTIFF DANIEL YOUNG was drugged and taken
12 unconscious and handcuffed to the hospital where he was held handcuffed to his
13 bed for several hours and subject to the above described humiliation until
14 released only to be charged weeks later, as discussed throughout this complaint,

15 5.37 This was an actual arrest and imprisonment just as if he were taken
16 to jail and held there equally unable to leave and equally under police guard.

17 5.38 The false detention and arrest of PLAINTIFFS was directly and
18 proximately caused by Supervising DEFENDANTS' failure to properly train,
19 supervise, and discipline Defendants and have engaged in racial profiling,
20 especially in light of previous incidents that had been brought to their attention.

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5.40 The conduct of DEFENDANTS was willful, malicious, oppressive and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts herein alleged.

COUNT SEVEN
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS/OUTRAGE
(As to All Defendants)

5.41 PLAINTIFFS re-allege and incorporate herein by reference the allegations set forth in Paragraphs 1 through 5.40 of this Complaint.

5.42 By their charging in, awakening Plaintiffs forcefully and abusively in Richard Young's own home, by the lacish and wholly excessive use of tasers and other force, by the false statements and false arrests, false statements, false imprisonment, malicious prosecution, and deliberate incursions of Plaintiffs personal privacy, DEFENDANTS acted in a manner narrowly calculated to cause severe emotional distress to PLAINTIFFS, which they did suffer.

1 5.43 In doing so, SERAD's conduct was extreme and outrageous

2 5.44 By their actions Defendants acted in a manner that was intended to terrify,
3 humiliate, and otherwise cause great emotional distress to PLAINTIFF A. J. and his
4 PARENTS and siblings, which they did suffer in a manner that was wholly foreseeable
5 and predictable.

6 5.45 as a result, Plaintiffs suffered severe ongoing emotional distress and a
7 rending of their relationship as well as physical manifestations including loss of sleep,
8 nightmares, depression, anxiety, post traumatic stress disorder, and difficulty functioning
9 and enjoying life.,

10 5.46 The conduct of DEFENDANTS was willful, malicious, oppressive, and/or
11 reckless, and was of such a nature that punitive damages should be imposed in an
12 amount commensurate with the wrongful acts alleged herein.

13 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

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15 **COUNT EIGHT**
16 **MALICIOUS PROSECUTION**
17 **(As to All DEFENDANTS)**

18 5.47 PLAINTIFFS reallege and incorporate herein by reference the
19 allegations set forth in Paragraphs 1 through 5.46 of this complaint.

20 5.48 DEFENDANTS PEÑA, STURLAUGSON, HAURI, JOHNSON, and the other
21 involved Officers falsely arrested PLAINTIFFS and wrote or ratified reports made up of

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1 wholly false statements about what had occurred, thus resulting in malicious
 2 prosecutions of Plaintiffs for conduct they had not and would never commit, and knew or
 3 reasonably should have known that the statements concerning the supposed actions
 4 and intentions of PLAINTIFFS were false, and the arrests were based on non-existent
 5 Probable Cause.

6 5.49 This false information resulting in a year-long of PLAINTIFF RICHARD
 7 YOUNG caused him physical harm completely disrupted his life, and forced him to
 8 choose between his dialysis and court hearings that kept getting scheduled on
 9 Wednesdays of his and his counsel's objections, and a seven-month prosecution of
 10 PLAINTIFF DANIEL YOUNG, with several court appearances that caused him great
 11 stress and inconvenience until the case was dismissed.

12 5.50 As discussed above, both Youngs were forced to hire counsel to defend
 13 them at significant financial cost.

14 5.51 As a direct and proximate result of the violation of their rights by
 15 DEFENDANTS, and of DEFENDANTS' tortious conduct towards PLAINTIFFS,
 16 PLAINTIFFS suffered general and special damages as alleged in this complaint.

17 5.52 The malicious prosecution of PLAINTIFF was directly and proximately
 18 caused by Supervising DEFENDANTS' and DOEs failure to properly train, supervise,
 19 and discipline DEFENDANTS other BPD officers involved in racial profiling
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VI. JURY TRIAL DEMAND

VII. PRAYER FOR RELIEF

7.1 For general damages including pain and suffering together with special damages for PLAINTIFFS' reasonable and necessary legal expenses, and medical expenses both past and future, the exact amount of which will be established at the time of trial;

7.3 For actual attorney's fees and litigation costs pursuant to 42 U.S.C. 1988;

1 7.4 For statutory attorney's fees and costs; and

2 7.5 For court supervised training and regulations requiring that the City and
3 the Department establish controls and review processes, and proper non-discriminatory
4 policies to ensure that such physical and emotional abuses and abuses of privacy do
5 not occur again.

6 7.6 That a special manager be appointed to ensure that the Department cease
7 engaging in racial profiling and other racially discriminatory conduct.

8 7.7 That all police policy changes be readily available to the public on BPD and
9 the City's websites and that a public announcement be made of any such changes.

10 7.8 That the Department be mandated to keep full, complete, and proper
11 statistics of all law enforcement encounters by race, including Latinos as a separate
12 category and that those statistics be audited by an outside agency approved by the
13 community on a quarterly basis.

14 7.9 That the Department be overseen by a civilian review board, whose members
15 are appointed by and accountable to the community, not the mayor, with enforcement
16 and investigative authority.

17 7.10 For such other and further relief as the Court deems just and proper.
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1 RESPECTFULLY SUBMITTED: July 6, 2017

2 /s/ LAWRENCE A. HILDES

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